

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO

PAUL A. SMITH,

Petitioner,

V.

JASON BUNTING,

Respondent.

CASE NO. 3:14 CV 636

JUDGE PATRICIA A. GAUGHAN

MEMORANDUM OF OPINION  
AND ORDER

On March 24, 2014, Petitioner *pro se* Paul A. Smith filed the above-captioned habeas corpus action under 28 U.S.C. § 2254. Smith is incarcerated in an Ohio penal institution, having been convicted in 2003 of felonious assault with a firearm and repeat violent offender specifications. As grounds for his Petition, he alleges a proper journal entry of his convictions and sentence was not made under Ohio law, and thus the trial court lacked jurisdiction. He asserts this violated due process and the constitutional prohibition against *ex post facto* laws

A federal district court may entertain a petition for a writ of habeas corpus by a person in state custody only on the ground that the custody violates the Constitution or laws of the United States. Furthermore, the petitioner must have exhausted all available state remedies. 28 U.S.C. § 2254.

The issue of whether or not the Ohio trial court adhered to Ohio rules governing journal entries is a state law question. It is not the province of this court to re-examine state court determinations on state law questions. *Estelle v. McGuire*, 502 U.S. 62, 67-68 (1991). Further,

while Smith now seeks to frame his claim in federal constitutional terms, he did not raise such arguments in the Ohio courts. *See, State v. Smith*, No. 99428, 2013 WL 3811212 (Cuy. Cty. App. July 18, 2013). Having failed to “fairly present” his constitutional claims to those courts, he is barred from raising them here. *See, e.g., Hannah v. Conley*, 49 F.3d 1193, 1195-96 (6<sup>th</sup> Cir. 1995)(failure to present factual and legal basis for federal constitutional issue was procedural default).

Accordingly, the Petition is denied and this action is dismissed pursuant to Rule 4 of the Rules Governing Section 2254 Cases. Further, the Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal from this decision could not be taken in good faith.

IT IS SO ORDERED.

/s/ Patricia A. Gaughan  
PATRICIA A. GAUGHAN  
UNITED STATES DISTRICT JUDGE

Dated: 8/19/14